

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Petition to File an Application)
for a Temporary Permit to Use Surface Water for)
Purposes of Soil Compaction for State Highway) ORDER
Construction Project No. STPD-BH-136-3(109))
Filed by Industrial Pipelines (V-11).)
Water Division 1-B.)

This matter came on before the Director of the Department of Natural Resources (Department) pursuant to Neb. Rev. Stat. § 46-714(3)(n) (Reissue 2004), § 61-206 (Cum. Supp. 2004) and Department rule 457 N.A.C. 23. The Director FINDS:

1. On July 14, 2004, an order declaring a formal moratorium on the filing of applications for surface water appropriations in the Republican River Basin was issued by the Department.
2. On July 16, 2004, a stay on the filing of applications for all new surface water appropriations in the Republican River Basin went into effect with the enactment of Neb. Rev. Stat. § 46-720(3)(b) (Reissue 2004).
3. On September 8, 2006, Mike Sughroue on behalf of Industrial Pipelines filed a petition in the Department for a variance (V-11) for leave to file an application to divert less than ten acre-feet of water from Turkey Creek in the Republican River Basin for a temporary public use construction project.

It is CONCLUDED:

1. The Petitioner's filing was in accordance with the procedures outlined in the Department's rules.
2. A variance petition may be approved if it meets one or more of the conditions in Department rule 457 N.A.C. 23. The use of water described in petition V-11 complies with Department rule paragraph 23.001.06.

It is therefore ORDERED:

1. The petitioner's request for a variance to file an application for a permit to appropriate water for road construction from a point of diversion located in the NE $\frac{1}{4}$ of Section 32, Township 2 North, Range 16 West in Franklin County is hereby APPROVED. This approval is conditioned upon the application being filed within one year from the date of this Order. Failure to file such application will negate this approval.

2. This decision shall not bind the Director to approve any application to which it relates, or in any way be used as evidence of prejudice for the Director's future decisions concerning the specific approval requirements of such application. Allowance of a leave to file does not negate the necessity to meet the specific approval requirements for an appropriation.

DEPARTMENT OF NATURAL RESOURCES

September 22, 2006

Ann Bleed, Acting Director

A copy of this Order was mailed on September ____, 2006, to Mike Sughroue, President, Industrial Pipelines, P.O. Box 375, Holdrege, Nebraska, 68949. A copy of this Order was provided to the Department's field office, Cambridge, Nebraska.